TREATY LAND ENTITLEMENT

HISTORY IN THE MAKING

A Process for

Partnership

Economic Development

Opportunities

Manitoba
Aboriginal and
Northern Affairs

Northlands
Sayisi Dene
Barren Lands
York Factory
Fox Lake
Shamattawa
Mathias Colomb
Nischawayasihk (Nelson House)
War Lake
Oxford Lake
Manto Sipi (God's River)
God's Lake
Opaskwayak
Norway House
Sapotaweyak
Wuskwi Sipihk
Peguis
Rolling River
Brokenhead
Buffalo Point
19 Bands represented by the TLE Committee
Negotiations in progress

101-04779/

Historical Perspective

Canada entered into various treaties with Indian Bands in Manitoba between 1871 and 1910. These seven treaties provided that Canada would set aside a certain amount of land as reserve land based on Band populations at the time of the original reserve surveys.

Not all Bands received their full amount of land. Treaty Land Entitlement (TLE) refers to land Canada owes to specific Bands under the terms of the original treaties.

Provincial participation in TLE results from provincial obligations to Canada under the 1929/30 Manitoba Natural Resources Transfer Agreement (MNRTA).

Through the MNRTA, Canada transferred the control and administration of all unallocated Crown lands to Manitoba. The MNRTA also requires that Manitoba set aside sufficient unoccupied Crown land so Canada can satisfy its outstanding treaty obligations. This is a constitutional obligation.

Currently in Manitoba there are 31 First Nations (Bands) with outstanding TLE claims, or approximately 50% of Manitoba's 61 First Nations. Canada has validated (confirmed) the outstanding TLE of 27 of these First Nations.

- Seven of the First Nations with validated claims have signed individual TLE settlement agreements.

- Nineteen are represented by the TLE Committee of Manitoba (see Map A) and one (Peguis) is currently in negotiations.

Manitoba Aboriginal and Northern Affairs has the lead provincial role for TLE negotiation and implementation, with support from Manitoba Justice and Manitoba Conservation. Indian and Northern Affairs Canada has the lead federal role for TLE negotiation and implementation, with support from the federal Justice Department.

Individual TLE Settlements

On March 14, 1994, the first TLE settlement in Manitoba was reached with the four Island Lake First Nations (Wasagamack, Red Sucker Lake, Garden Hill and St. Theresa Point). The settlement agreement included the following major components:

- 100,000 acres of Crown land for reserve (Manitoba); and a payment of $9.0 million (Canada) plus disbursements.

On August 3, 1994, a TLE settlement was reached by Canada and the Long Plain First Nation. Major components include:

- a payment of $16.5 million (Canada) to be used by the Long Plain First Nation to purchase a minimum of 4,169 acres (including mines and minerals) for reserve.

In March 1995, a TLE settlement was reached by Canada and the Swan Lake First Nation. Major components include:

- a payment of $10.4 million (Canada) to be used by the Swan Lake First Nation to purchase a minimum of 4,484 acres (including mines and minerals) for reserve.

In March 1996, a TLE settlement was reached between Canada and the Roseau River First Nation. Major components include:

• a payment of $14 million to be used by the Roseau River First Nation to purchase a minimum of 5,861 acres (including mines and minerals) for reserve.

TLE Committee of Manitoba

The TLE Committee of Manitoba represents 19 First Nations with validated TLE claims. These 19 Entitlement First Nations (EFNs), represented by the TLE Committee in negotiations, signed the TLE Framework Agreement, along with Canada and Manitoba, on May 29, 1997.

As per the Framework Agreement, each EFN is now to begin the process of approving and entering into a specific land entitlement agreement.

Table A

ENTITLEMENT FIRST NATIONS REPRESENTED BY THE TLE COMMITTEE OF MANITOBA IN FRAMEWORK AGREEMENT NEGOTIATIONS

Barren Lands
Buffalo Point
God's Lake
Mathias Colomb
Northlands
Opaskwayak (The Pas)
Rolling River
Sayisi Dene (Fort Churchill)
War Lake
York Factory
Brokenhead
Fox Lake
God's River
Nelson House (Nisichawayasihk)
Norway House
Oxford House
Sapotaweyak (Shoal River)
Shamattawa
Wuskwi Sipihk (Indian Birch)

Land Transfer

Under the Framework Agreement, Manitoba will transfer up to 1,100,626 acres of land to Canada to be held in reserve.

• Each EFN may select up to its agreed share of 985,949 acres of Crown land; and

• up to 114,677 acres may be purchased by certain EFNs where insufficient Crown land is available for selection.

Table B

SETTLEMENT ACRES

FIRST NATION	TREATY NUMBER	CROWN LAND (acres)	PURCHASE LAND (acres)	TOTAL (acres)
Crown land only:				
Fox Lake	(5)	26,391		26,391
God's Lake	(5)	42,600		42,600
God's River	(5)	8,725		8,725
Nisichawayasihk	(5)	79,435		79,435
Norway House	(5)	104,784		104,784
Oxford House	(5)	35,434		35,434
Sayisi Dene	(5)	22,372		22,372
Shamattawa	(5)	24,912		24,912
War Lake	(5)	7,156		7,156
York Factory	(5)	29,173		29,173
Mathias Colomb	(6)	234,371		234,371
Barren Lands	(10)	66,420		66,420
Northlands	(10)	94,084		94,084
Subtotal		**775,857**		**775,857**
Crown land and Purchase land:				
Brokenhead	(1)	4,344	10,137	14,481
Buffalo Point	(3)	3,432	607	4,039
Rolling River	(4)	2,356	44,756	47,112
Sapotaweyak	(4)	108,134	36,045	144,179
Wuskwi Sipihk	(4)	44,168	14,722	58,890
Opaskwayak	(5)	47,658	8,410	56,068
Subtotal		**210,092**	**114,677**	**324,769**
TOTAL		**985,949**	**114,677**	**1,100,626**

Financial Provisions

Under the Framework Agreement, Canada will provide up to $76 million, broken down as follows:

Federal Payments:	$26,783,339
Land Acquisition Payments:	$24,461,735
Implementation:	$8,590,825
Third Party Interests:	$8,862,171
Negotiating Costs:	$6,301,930
Community Approval Process:	$1,000,000

Table C

FEDERAL PAYMENTS AND LAND ACQUISITION PAYMENTS

FIRST NATION	TREATY NUMBER	FEDERAL PAYMENT	LAND ACQUISITION PAYMENT
Brokenhead	(1)	352,395	$ 3,679,671
Buffalo Point	(3)	98,247	124,148
Rolling River	(4)	1,146,457	8,503,742
Sapotaweyak	(4)	3,508,548	7,100,823
Wuskwi Sipihk	(4)	1,433,069	2,900,336
Fox Lake	(5)	642,217	
God's Lake	(5)	1,036,657	
God's River	(5)	212,327	
Nisichawayasihk	(5)	1,933,017	
Norway House	(5)	2,549,892	
Opaskwayak	(5)	1,364,397	
Oxford House	(5)	862,264	
Sayisi Dene	(5)	544,409	
Shamattawa	(5)	606,234	
War Lake	(5)	174,149	
York Factory	(5)	709,919	
Mathias Colomb	(6)	5,703,346	
Barren Lands	(10)	1,616,313	
Northlands	(10)	2,289,482	
Subtotal		**$ 26,783,339**	**$ 24,461,735**

Principles for Land Selection and Acquisition

The Framework Agreement outlines principles to be used as guidelines in the selection and acquisition of land. Any issues or matters in dispute that are not resolved by the parties or an EFN may be referred to the Implementation Monitoring Committee.

Guiding principles during negotiation, which are reflected in the Framework Agreement's land acquisition principles, provided that:

- acquisition shall be undertaken on a "willing buyer and willing seller" basis;

- neither Canada nor Manitoba will expropriate any land or interest in land.

General land selection and acquisition principles include the following:

- An EFN may select Crown land or acquire other land from its treaty area or traditional territory within the province.

- An EFN may select Crown land from outside its treaty area or traditional territory but within the province where, on a case-by-case basis, it can establish a reasonable social or economic development objective. Manitoba must concur with the EFN selection. (Manitoba will not unreasonably withhold concurrence.)

- An EFN may acquire land from outside its treaty area or traditional territory but within the province where, on a case-by-case basis, it can establish a reasonable social or economic development objective.

- In general, parcels of land selected will be 1,000 acres or more in size, except where suitable Crown land is not available in the location preferred by the EFN; where the land is located in reasonable proximity to a reserve of the EFN; or where the purpose of a selection for historical, cultural, economic or social reasons necessitates a smaller parcel. (A written statement by the EFN outlining reasons for a selection of less than 1,000 acres may be requested.)

- Land may be selected or acquired where the owner or lawful user of another parcel of land is not deprived of access to that other parcel.

EFN-Specific Treaty Entitlement Agreements and Selection/Acquisition Periods

Individual EFNs are to begin the process of ratifying EFN-specific Treaty Entitlement Agreements (TEAs) under the terms of the Framework Agreement within 18 months of signing the Agreement.

As of May 2000, 15 EFNs have entered into Band-specific Agreements.

Crown land selections are to be completed within three (3) years of the ratification of an EFN's Agreement. Land acquisitions are to be completed within fifteen (15) years of TEA ratification. In both cases, two additional one-year periods may be provided should an EFN not be able to select/acquire all of its land within these time frames.

Community Interest Zones (CIZs)

Community Interest Zones are temporary areas of protection adjacent to the main reserves of EFNs. The intent is to protect such areas from development while a First Nation is involved in selection or acquisition. A CIZ includes the area within 30 km of the exterior boundaries of the reserve, where its main administrative office is located. CIZ boundaries are described by section and township lines.

CIZs apply to all dispositions of Crown land except:

- renewal of a right, interest or estate in, or permit to use, such land when renewal is a matter of law, established practice, or the policy of Manitoba as at the date of the signing of the Framework Agreement;

- the staking of mining claims and conversion to leases;

- quarry permits that authorize a specific volume, time period, site and project/activity for public purposes; or

- surplus provincial land.

During the period of selection, Manitoba will provide written notice to an EFN of any proposed disposition within its Community Interest Zone. From the date of notice, the EFN has 60 days in which to express an interest in selecting the land, and 180 days in which to make the selection. If the EFN exercises both of these options, the Province will not make the disposition.

The Province may make the proposed disposition if the EFN:

- does not express an interest in the selection within 60 days or the date of notice; or

- having expressed such an interest, does not proceed to make the selection within 180 days of the date of notice.

Third-Party Interests

As per the Framework Agreement:

• a "third party" is any individual, corporation (including a Crown corporation), partnership, trust, joint venture, unincorporated association, northern community or First Nation and their respective heirs, successors, legal representatives and permitted assigns, (other than Canada, Manitoba, the TLE Committee, any EFN, or trustees under individual EFN Trust Agreements);

• a "third-party interest" means any interest, right or estate of any nature held by a third party in or to land, or any right of use or occupation of land, other than outright ownership.

Methods by which third-party interests may be addressed include the following:

• a third-party interest may be purchased by an EFN;

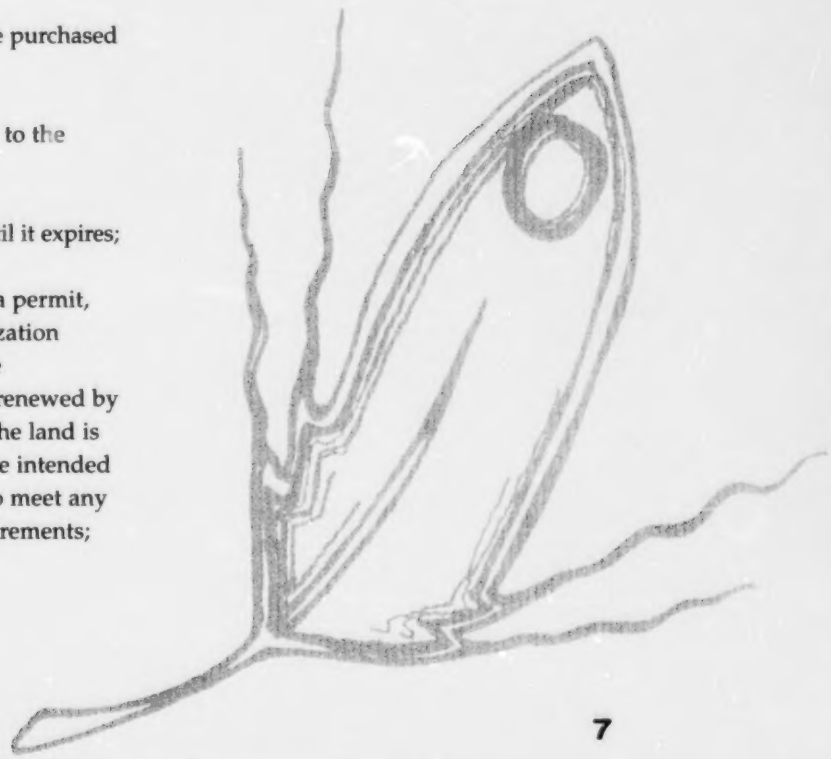
• the third party may consent to the cancellation of its interest;

• the interest may continue until it expires;

• where the interest is under a permit, licence, lease or other authorization issued by Manitoba, it may be withdrawn, cancelled, or not renewed by Manitoba if determined that the land is not being used for the purpose intended or the third party has failed to meet any applicable conditions or requirements;

• the interest may be replaced with a replacement interest; or

• the interest may be resolved in any other way to which Canada, Manitoba, the EFN and the third party may agree.



Copies of the Treaty Land Entitlement
Framework Agreement are available from:

Manitoba Aboriginal and Northern Affairs
200-500 Portage Avenue
Winnipeg, Manitoba R3C 3X1

Phone: (204) 945-2510
Fax: (204) 945-3689